and probable consequences of the breach of contract. When such is the case damages for mental suffering are allowed. *Beasley v. Western Union Tel. Co.*, 39 Fed. Rep., 181; *Hale v. Bonner*, 82 Tex., 33. But they are not allowed when the mental suffering is a remote consequence. *Illinois Cent. R. Co. v. Siddons*, 53 Ill. App., 607. Damages for mental suffering, in actions for breach of contract, can never be recovered by one who is not a party to the contract. *Wells v. Fuller*, 4 Tex. Civ. App., 213.

DIVORCE—DISMISSAL OF BILL—GUILT OF BOTH PARTIES.—WILSON V. WILSON, 132 N. W., 401 (NEB.).—*Held*, that upon an application for a divorce, where both parties are found guilty of any of the enumerated offenses for which a divorce may be granted, the court should dismiss the bill. Root, J., *dissenting in part.*

The doctrine of recrimination is but an application of the maxim of equity that he who comes into equity must come with clean hands. *Hoff v. Hoff*, 48 Mich., 281; *Mattox v. Mattox*, 2 Ohio, 233. At common law adultery was the only offense pleaded as recrimination. *Cocksedge v. Cocksedge*, 1 Rob. Eccl., 90. If the complainant is guilty of the same offense as the defendant, there can never be a divorce. *Duberstein v. Duberstein*, 171 Ill., 133; *Derby v. Derby*, 21 N. J. E., 36. And by the weight of authority the offense pleaded in recrimination need not be of the same nature as the defendant's offense, provided, of course, that it is one which of itself would be a cause for divorce. *Cassidy v. Cassidy*, 63 Cal., 352; *Cumming v. Cumming*, 135 Mass., 386. And no more evidence is requisite to establish a recriminatory charge made in an answer than would be needful to establish a lige charge in an original libel for divorce. *Schouler "Husband and Wife,"* pg. 565; *Pollock v. Pollock*, 71 N. Y., 137. However there are a few States which demand that the two offenses must be of the same character. *Bast v. Bast*, 82 Ill., 584; *Dillon v. Dillon*, 32 La. Ann., 643. Some States allow recrimination charges not to prevent the divorce but to reduce the alimony. *Buerfening v. Buerfening*, 23 Minn., 563

EASEMENTS—PRIVATE WAYS—APPURTENANT TO LAND.—HAMMONDS ET AL. V. EADS ET AL., 142 S. W., 379 (KY.).—*Held*, that under a deed giving the grantee the right to pass over the remaining lands of the grantor to reach the lands conveyed when an adjoining stream should be "past fording," the right of way was not personal to the grantee, but appurtenant to the land.

An easement is never presumed to be in gross when it can fairly be construed to be appurtenant to some estate. *Dennis v. Wilson*, 107 Mass., 591; *Oswald v. Wolf*, 126 Ill., 542; *Sanxay v. Hunger*, 42 Ind., 44. Whether the right of way, in the principal case, is appurtenant to land or in gross should be determined by the nature of the right and the intention of the parties creating it. *Valentine v. Schreiber*, 3 N. Y. App. Div., 235; *French v. Williams*, 82 Va., 462. A granted right of way is not in gross when